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**NEW MEXICO
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BUTCH TONGATE
Cabinet Secretary

J. C. BORREGO
Deputy Secretary

March 10, 2017

Ms. Alexis Strauss
Acting Regional Administrator
U.S. EPA Regional 9
75 Hawthorne Street
San Francisco, CA 94105

Re: State Certification – Chevron Mining, Inc./McKinley Mine, NPDES Permit No. NM0029386

Dear Ms. Strauss:

Enclosed, please find the state certification for the following proposed NPDES permit:

Chevron Mining Incorporated McKinley Mine
NPDES Permit No. NM0029386

If any, comments and conditions are enclosed on separate sheets.

Certification Process: The U.S. Environmental Protection Agency will regulate this project under Individual Permit (NPDES permit number NM0029386). A state Water Quality Certification is required by CWA §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, NMSA 1978) and complies with the state Water Quality Standards (*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC) amendments effective on June 5, 2013*), the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (20.6.2.2001, NMAC), NMED issued a public notice of this activity and announced a public comment period, posted on the Surface Water Quality Bureau's web site: (www.nmenv.state.nm.us/swqb/WQA/Notice) on February 2, 2017. The public comment period ended on March 6, 2017. NMED received no comments by the end of the comment period.

State Certification
Chevron Mining Incorporated McKinley Mine
NM0029386
Page 2 of 2

Sincerely,

/s/Shelly Lemon

Shelly Lemon, Acting Bureau Chief
Surface Water Quality Bureau

cc: (w/enclosures)

Mr. Brent Larsen, USEPA (6WQ-PP) via e-mail
Mr. David Long, USEPA (6EN-WM) via e-mail

Certified Mail (7008 1830 0003 4175 8685)

Ms. Alexis Strauss
Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

3/10/2017

STATE CERTIFICATION

RE: **Chevron Mining, Inc. – McKinley Mine NM0029386**

Dear Ms. Strauss:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- ☐ certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- ☒ certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (**see attachments**)
- ☐ denies certification for the reasons stated in the attachment
- ☐ waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

/s/Shelly Lemon

Shelly Lemon, Acting Bureau Chief
Surface Water Quality Bureau

CONDITIONS OF CERTIFICATION

The following revisions are necessary to ensure that discharges allowed under the NPDES permit protect State water quality standards adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [Chapter 74, Article 6 NMSA 1978]. State water quality standards are published in the document entitled *Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 NMAC (As amended through June 5, 2013)* (WQS).

Subsection G of 20.6.4.11 NMAC states:

Human health-organism only criteria in Subsection J of 20.6.4.900 NMAC apply to those waters with a designated, existing or attainable aquatic life use. When limited aquatic life is a designated use, the human health-organism only criteria apply only if adopted on a segment-specific basis. The human health-organism only criteria for persistent toxic pollutants, as identified in Subsection J of 20.6.4.900 NMAC, also apply to all tributaries of waters with a designated, existing or attainable aquatic life use.

USEPA regulations at 40 CFR 122.44(d)(1)(i) require that permit

[l]imitations must control all pollutants or pollutant parameters ... which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard ...

Condition #1

New Mexico 401 Certification Monitoring Requirements:

The state of New Mexico requires data on additional parameters in order to determine compliance with its designated uses for the receiving waters. Monitoring of these parameters shall be conducted once per calendar year, at a time when discharge is occurring.

The permittee shall monitor all pollutants listed below for discharges to waters on State of New Mexico lands other than Tse Bonita Wash, namely Defiance Draw and tributaries thereto. The state has specified that the following will be monitored for per the Use Attainability Analysis (UAA) approved on January 30, 2013. Therefore, monitoring of the following parameters is required at outfalls 4, 5, 29, 30, 32-50, and 68-75 once per year during a discharge event:

POLLUTANT	POLLUTANT	POLLUTANT
Antimony, total	Zinc, total	Dieldrin
Arsenic, total	Aldrin	2,3,7,8-TCDD dioxin
Nickel, total	Benzo (a) pyrene	Hexachlorobenzene
Selenium, total	Chlordane	PCBs
Thallium, total	4,4' -DDT and derivatives	Tetrachloroethylene

Condition #2

New Mexico 401 Certification Monitoring Requirements:

The state of New Mexico requires data on additional parameters in order to determine compliance with its designated uses for the receiving waters. Monitoring of these parameters shall be conducted once per calendar year, at a time when discharge is occurring. The permittee shall monitor each outfall discharging into Tse Bonita Wash within State of New Mexico lands. As of the date of this permit writing, those outfalls are 031, 064, and 065.

POLLUTANT	POLLUTANT	POLLUTANT
Aluminum, total recoverable	Arsenic, total	Cadmium, total
Chromium III, total	Chromium VI, total	Molybdenum, total
Selenium, total	Zinc, total	Gamma-BHC (Lindane)
Diazinon	Dieldrin	Beta-Endosulfan
Heptachlor	Nonylphenol	Pentachlorophenol
Toxaphene	Copper, total	Cyanide, total
Lead, total	Manganese, total	Mercury, total
Silver, total	Aldrin	Chlordane
4,4'-DDT & derivatives	alpha-Endosulfan	Heptachlor epoxide
Endrin	Heptachlor epoxide	Polychlorinated Byphenyls (PCBs)
Pentachlorophenol		

Condition #3

New Mexico 401 Certification Monitoring Requirements:

A discharge has, “reasonable potential” if the projected receiving water concentration exceeds water quality criteria. If there is, “reasonable potential” then limits are established. The purpose of hardness monitoring (CaCO_3) is to ensure protection of aquatic life designated uses in 20.6.4.98 and 20.6.4. 97 NMACA. To ensure compliance with dissolved hardness-based aquatic life numeric criteria calculations in 20.6.4.900.I (1) and (2) and 20.6.4.900.J NMAC, a sample for dissolved hardness must be obtained at the time of discharge.

Monitoring for dissolved hardness shall occur at the same frequency and time as the above samples are collection.

COMMENTS (THAT ARE NOT CONDITIONS OF CERTIFICATION)

NMED Comment #1

On page 11 of 32, Part III.B.1. Special Conditions, change the address the permittee will notify the New Mexico Environmental Department of any noncompliance which may endanger human health or the environment to.

New Mexico Environment Department
Surface Water Quality Bureau
505-827-0187

NMED Comment #2

On page 11 of 32, Part III.C. Additional Annual Monitoring. Update paragraph 2, sentence 2, to read. "Defiance Draw, and tributaries thereto, as defined in the Use Attainability Analysis (UAA) approved on January 30, 2013".